

EXHIBIT D

1 MS. SAVOIE: My name is Rebecca Savoie. I'm
2 a claim agent in the East Hampton, Massachusetts
3 office. Today is June 21, 2001 at 11:00 or
4 approximately 11:00 a.m. I'm in Feeding Hills,
5 Massachusetts talking to Paul Papadakis, did I say
6 that right, okay, about an incident that occurred
7 on June 13th in Warren, Massachusetts in which he
8 sustained in injury.

9 Paul, are you aware that I'm taping your
10 statement?

11 MR. PAPADAKIS: Yes.

12 MS. SAVOIE: And do I have your permission to
13 do so?

14 MR. PAPADAKIS: Yes.

15 **EXAMINATION BY MS. SAVOIE:**

16 Q Would you give me your name and spell your last
17 name?

18 A Paul Papadakis, P-A-P-A-D-A-K-I-S.

19 Q And what's your address, Paul?

20 A 54 Carmel Lane, Feeding Hills, Mass. 01030.

21 Q And how old are you?

22 A 53.

23 Q And what's your birth date?

24 A February 04, 1948.

1 Q Are you married or single?

2 A Married.

3 Q And do you have any dependents under 18?

4 A No.

5 Q What's your position with the railroad?

6 A An I&R foreman.

7 Q And what was your entered service date? Do you
8 recall when you started with the railroad?

9 A Not the CSX date?

10 Q No, no. With the -- well I don't know. Did you
11 start with Conrail or Penn Central?

12 A Penn Central, October 06, 1969.

13 Q And your employee number?

14 A 788224.

15 Q And your social security number?

16 A 023-38-4947.

17 Q What's your regularly scheduled work week?

18 A Monday to Friday 7:00 a.m. to 3:30 p.m.

19 Q You have Saturdays and Sundays off?

20 A Yes, Ma'am.

21 Q And your average weekly salary; if you can recall?
22 You don't have to now.

23 A Uhm, I can look.

24 Q That's fine. If you know. Just a question: do

1 you work 40 hours or do you normally work --

2 A 40-hour week, yeah.

3 Q Do you work any overtime?

4 A Yes.

5 Q A lot?

6 A Not much, no.

7 Q Now on June 13, 2001 what time did you go on duty?

8 A 7:00 a.m.

9 Q And where do you report for duty?

10 A West Springfield, Mass.

11 Q Now as an I&R inspector what are the duties of
12 that job? What do you normally do?

13 A Uhm, inspect the railroad tracks, switches and
14 make minor repairs.

15 Q Okay. And that would be between which mile posts?

16 A Mile Post 127 and Mile Post 74.

17 Q Now on June 13th what were you scheduled to do
18 that particular day?

19 A Uhm, switch inspection. However, because the
20 temperature was going to be over 85 degrees
21 beginning at or about noontime I had to make a
22 heat patrol.

23 Q Okay. And when you say make a heat patrol what
24 did that involve doing?

1 A Setting on the track at one end of the territory
2 and riding to the other. I was making a regular
3 track inspection but also looking out for trains
4 that were across the track.

5 Q Now when you had the territory on a normal day do
6 you do that whole territory every day --

7 A No.

8 Q -- or do you -- in other words --

9 A No.

10 Q Okay. Do you start at one end on a Monday or how
11 do you do that?

12 A I do half on Monday, the other half on Tuesday,
13 back to the first half on Thursday, the second
14 half on Friday. Wednesdays I usually go do the
15 walking inspections or the switch inspections.

16 Q All right. So on June 13th then you were out
17 having to do a heat inspection?

18 A Yes.

19 Q Now did there come a time during, on that day
20 where you sustained an injury at some point in
21 time?

22 A Yes.

23 Q Okay. Do you recall about what time that was?

24 A About 5:00 p.m.

1 Q Now what are your hours again?

2 A 7:00 to 3:30 p.m.

3 Q And you were out at 5:00 p.m. So you were working
4 overtime that day?

5 A Whenever we need the heat inspection it usually
6 runs into overtime because we can't begin it until
7 after noontime. We wait until it gets hot.

8 Q And then you go out and --

9 A Yeah.

10 Q All right. And where did the incident occur?

11 A I was crossing at Mile Post 74.

12 Q Is that even 74 or is it 73.99?

13 A I think somebody said it was 73.99.

14 Q Okay. But it's 74?

15 A You can see a mile post there. It's pretty close.

16 Q Coming in. And that's in, let's see, West Warren,
17 Mass.?

18 A Yes.

19 Q Okay. Now can you tell me in your own words,
20 giving me as much detail as possible, exactly what
21 happened?

22 A Uh, I had finished my inspection. I high railed
23 from 127 to Mile Post 74 and I got out of the
24 vehicle. I lifted the rear wheels up, the rear

1 steel wheels off the rail, went around to the
2 front of the truck and was in the process of
3 lifting the left front steel wheel when the high
4 rail mechanism broke. Uh, when that happened the
5 wheel would not -- the only way the wheel would
6 come up would be manually. So I got a lining bar
7 and a four-inch block. The lining bar was used
8 to, as a lever to lift the wheel so it was high
9 enough to get the truck off the track and then I
10 put a -- I was putting a four-inch wooden block
11 underneath the wheel. I did that because I needed
12 to chain the wheel up in order to drive the truck
13 off the track. And when I bent down while
14 supporting the high rail wheel with the lining
15 bar, when I bent down with the wooden block I felt
16 something snap in my back and it knocked me right
17 to my knees. And after a little while of walking
18 around, trying to feel good again I had started
19 the procedure all over again. And it took a
20 while, but I was able to chain up the wheel and
21 then drive it off the track. After I got it off
22 the track then I had to get the wheel up high
23 enough so that I could move the truck over to the
24 highway and back to the headquarters. So that

1 involved wedging the wheel up higher and weaving
2 the chain around the wheel at a high rail support
3 and the bumper of the truck to get the chain tight
4 enough so that I could drive over the highway.
5 When I got back to West Springfield I called Dick
6 Roth, I can't remember if I reached him on his
7 cell phone or his home phone, to tell Crocker
8 (phonetic) what happened.

9 Q All right. Let me just ask you a couple of
10 questions. You started at 127 which is the, so
11 that's on the west end, right?

12 A Yes.

13 Q Where is 127?

14 A Chester.

15 Q Chester. Did you have any problem getting the
16 wheels, the steel wheels down onto the track in
17 Chester when you first got on?

18 A No.

19 Q There wasn't any problems?

20 A No.

21 Q They worked normally?

22 A Yeah.

23 Q Okay. And so you rode, you know, to Mile Post 74
24 and prepared to take the train off, the truck off

1 of the tracks. You said you got the back steel
2 wheels up. Now how do you get them up?

3 A The same way as the front.

4 Q You use a --

5 A You use an aluminum bar.

6 Q And the aluminum bar that you use is approximately
7 how long?

8 A About 30 inches, 24 to 30 inches long.

9 Q And how much would you say it weighs?

10 A Just two or three pounds.

11 Q And you used that as like a pry bar type thing
12 or --

13 A Yeah, it takes the pressure off the wheels and
14 then you move it around to the bottom of this,
15 it's like a sprocket. Then you push down on it
16 and that lifts the wheel up and it locks into
17 position. And then you put the steel safety pin
18 through.

19 Q So there's a steel safety pin that's in there. So
20 you would have taken the safety pin out, put the
21 aluminum bar into the sprocket and --

22 A Take the pressure off the steel wheel and then
23 raise it by using, it's to open it to two areas
24 that the bar goes in.

1 Q So the locking mechanism is once you use that bar
2 and it goes in it just kind of, does it click into
3 place or it locks in? You know that it locks in?

4 A Yes.

5 Q Do you hear it like lock in?

6 A You can hear it and feel it.

7 Q Okay. So you know that it's locked in. And then
8 you put that safety pin in?

9 A Yes.

10 Q So you did it on both sides. You have to do it on
11 the rear left and the rear right?

12 A That's right.

13 Q Okay. And then you went around to the front to do
14 the same thing --

15 A Yeah.

16 Q -- using that aluminum bar. Now had you done the
17 right front or were you working on the left front
18 first or the right front?

19 A I don't remember.

20 Q You don't remember. You don't remember when you
21 were doing the left front if you had already done
22 the right front?

23 A Yeah, I don't remember.

24 Q Did you have any trouble with the right front?

1 A No, I had no trouble.

2 Q So that one went up okay. Now when you got to the
3 left front and you were using that aluminum bar
4 what did it do that you knew that it was broken or
5 something?

6 A Uhm, when you put the bar in to lift the wheel up
7 it makes like a 90 degree revolution. When I put
8 the bar in it went straight down and it made like
9 a 180 revolution. And I know when it goes beyond
10 that point that something's not right.

11 Q So in other words, this bar by putting it in and
12 moving it didn't raise that steel wheel?

13 A No. It started to but then it just went
14 completely like 180 degrees. It went beyond, it
15 went beyond to where it was supposed to.

16 Q Had this happened before?

17 A Oh, yeah, yeah.

18 Q So you've experienced this particular problem
19 before?

20 A Yeah.

21 Q Now this truck that you were using do you recall
22 what, is there a number to the truck?

23 A Yes. It's the 500285.

24 Q 500285. Is that like your normal truck?

1 A Yes.

2 Q Do you always use that truck?

3 A Yeah.

4 Q Had you had this problem before using this truck?

5 A It's been quite a while. Our mechanics always
6 used to run a setscrew out far enough so that if
7 something went too far the setscrew would hit part
8 of the bumper and it wouldn't go, it wouldn't make
9 that full 180 degree revolution. I guess TNT,
10 they're the ones that do the high ground
11 inspections now. I'm not sure if they know --

12 Q To do that?

13 A -- about that, yeah. It's not something that,
14 it's not something that's supposed to happen, but
15 it's not something that happens frequently, but it
16 can happen.

17 Q So when our guys were servicing the trucks, I
18 mean, they knew that that could happen when they
19 put that setscrew?

20 A Well the setscrew is in there.

21 Q Oh, it's in there.

22 A But there's a degree as to how far it comes out.
23 It's really, it's really a guess.

24 Q Hmm-hmm.

1 A And they're, I think they used it back then not
2 far enough. But it happened even when they were
3 doing the same thing.

4 Q So, I mean, it does happen?

5 A Yeah.

6 Q So now you couldn't use that aluminum bar. That
7 did nothing. So what did you then use to pry the
8 wheel up?

9 A The lining bar.

10 Q How long is the lining bar?

11 A It's about a four-foot long steel bar. It weighs
12 about seven or eight pounds.

13 Q And you put this between the track and the wheel?

14 A Yeah, the, between the, it's a, I think they call
15 it a derail or assembly on a steel wheel and the
16 crossing. You use the bar kind of as a lever.

17 Q Now when you do this you're actually blocking the
18 crossing; you're actually on the road of the
19 crossing?

20 A Yeah. The crossing that I'm on there's only one
21 home on the other side of the tracks. It's a
22 private crossing.

23 Q So you have to be right on the road?

24 A Right.

1 Q So you were using the pry bar and prying it up.
2 So you were able to pry it up about how high from
3 the track?

4 A Uhm, at that point I was just trying to get it
5 about four inches up enough, high enough so I can
6 get the wooden block that I carried underneath.

7 Q Is that why you carry that wooden block?

8 A I carry the block in case I derail.

9 Q So basically what you were doing is similar to if
10 you derail, you know, prior to --

11 A Well no. Actually the blocking that we use for
12 derailling you would wedge up the rubber wheels so
13 that you could climb back up and get back up onto
14 the steel.

15 Q So it's a little different, but you carry that
16 with you?

17 A Yeah.

18 Q And so it was in the process of -- you had the pry
19 bar and then you were pushing down on it to raise
20 the wheel and you had it up. So what were you
21 holding it with one hand?

22 A Yeah.

23 Q Which hand would you have been holding that down
24 with?

1 A I would guess -- I don't know for sure, but I
2 would guess it was my left hand because I would
3 have had to reach around with my right hand to get
4 the wooden block underneath there.

5 Q Because you had taken that block out and put it
6 next to you somewhere --

7 A Yeah.

8 Q -- in preparation to do that, okay. So you're
9 holding with your left arm and you're reaching for
10 the block with your right arm?

11 A I had the block.

12 Q Oh, you had the block?

13 A I was reaching to put it under the wheel.

14 Q Oh, to put it under, okay. The bar is about, you
15 said, what, about four feet long?

16 A Yeah.

17 Q So are you on the far end; are you four feet away?

18 A (No verbal response).

19 Q So you were closer than that. So you're within
20 your reach to get that under there?

21 A Hmm-hmm.

22 Q Okay. So it was at that time that you were
23 reaching to put the block under that you felt the
24 sharp pain in your back?

1 A Yes.

2 Q About where in your back?

3 A Lower left, right at the bottom.

4 Q The lower left side. So that was on the same side
5 you were holding the bar down with?

6 A (No verbal response).

7 Q And, of course, when you felt that pain I'm sure
8 you dropped the bar?

9 A Yeah, I went right to my knees.

10 Q And you said you were able to kind of walk a
11 little bit of it off initially?

12 A Yeah.

13 Q You were able to then go back and complete the
14 job?

15 A Yeah.

16 Q How high up did you get it when you first chained
17 it?

18 A Just the four inches.

19 Q Just enough to get off?

20 A Just enough to get it down. Get the block
21 underneath it.

22 Q Okay. So you were up enough to be able to drive
23 it. So I guess I would think that you probably
24 did the right side already?

1 A Or I could have gone back and done the right side.
2 You know, it's not, it wasn't something that would
3 inhibit me from doing the left side.

4 Q And that side, the right side went fine?

5 A Yes.

6 Q Now once you were off you said that you then had
7 to pry it up higher to get it higher so that you
8 could drive and chain it up?

9 A Hmm-hmm.

10 Q Now how did you -- did you use the pry bar to tie
11 that higher too? Is that the procedure?

12 A No, I had to lift it. It was on my knees
13 alongside it. I was trying to lift it because I
14 had to weave the chain around it.

15 Q So you're down, in other words, and you're trying
16 to lift it. What are you pushing up or something?

17 A Well like this. You know, lifting upward with my
18 hands.

19 Q Okay. And chaining, holding it probably with one
20 hand and you probably would have been holding it
21 with your left hand maybe and chaining it with
22 your right hand?

23 A Well, no, I lifted it up and got it from the wedge
24 with that block to get it up as high as it would

1 go.

2 Q Okay.

3 A And then weave the chain around it.

4 Q So you wedged it up?

5 A Yeah.

6 Q And once it was up then you didn't have to hold it
7 and chain it?

8 A No, no.

9 Q Then you said, you know, you were able to drive
10 back, you know, from West Warren and you reported
11 it to Dick Roth. Regarding the medical treatment,
12 what medical treatment have you received?

13 A Uhm, I went into work on Thursday morning. Dick
14 told me that there was just no sense in me being
15 there. And he said go home. He said call when
16 you've had time to rest. And on Friday morning I
17 called him and I said I've just had an awful day.
18 I said I'm going to the doctor's. So I told him
19 that I didn't want to sit in a hospital all day,
20 you know. So my personal care physician he has an
21 emergent care facility at his office. So I went
22 there. I was examined and he prescribed Valium,
23 Percocet. I was told walk. That was about it.
24 And I think she's, let's see, a nurse practitioner

1 said I had a regularly scheduled physical due on
2 Wednesday morning. So she said well you can see a
3 doctor on Wednesday. So I went back yesterday.
4 And he told me that the injury was not spinal.
5 Oh, before that on Friday he sent me to Mercy
6 Hospital for some x-rays. And I guess they were
7 okay because they told me the injury was not
8 spinal, it's musculature. And he said the muscles
9 just like fall apart like a tear, a fibrous tear.
10 And he just keep doing what you're doing, a lot of
11 heat. And he told me to come back on the 27th to
12 see him again.

13 Q Okay. Paul, have you ever been injured on or off
14 the railroad before?

15 A On the railroad. Off the railroad.

16 Q Can you just tell me basically the body parts? I
17 don't need to know the circumstances.

18 A On the railroad?

19 Q Yeah.

20 A I crushed this finger.

21 Q Your right index finger?

22 A Yeah. And I sprained my right ankle. I sprained
23 a wrist. I fell once. It was just abrasions.
24 That's it.

1 Q And off the railroad have you had any injuries?

2 A I had a car accident in 1993. And that was my
3 neck.

4 Q Now have you recovered from those injuries?

5 A Yeah.

6 Q And you returned to work and you haven't had any
7 problem, you know, working as a result of these
8 injuries. One other thing I didn't ask you. Do
9 you have a job, do you work a job off the railroad
10 or run a business or anything like that?

11 A No.

12 Q Paul, can you think of anything else regarding the
13 incident? Did we pretty much cover it?

14 A Yeah.

15 Q Now what safety equipment were you wearing at the
16 time? Were you wearing gloves?

17 A Gloves, hard hat, safety glasses, steel tip shoes.

18 Q Did you -- the ground conditions where this
19 occurred, was that on pavement at the crossing or
20 were you on a ballast?

21 A I think I was standing -- it's a short crossing
22 and I would think the truck took the entire length
23 of the crossing. So I was standing, I was near
24 the ballast at times.

1 Q Did you in any way during this slip or trip or,
2 you know, look down at the ground conditions as
3 you were doing this that it might have impacted,
4 you know, what happened?

5 A I don't think so.

6 Q You don't recall slipping in --

7 A Like gravel?

8 Q Yeah, like anything with the ground conditions.
9 In other words, as you were doing it, you know,
10 your foot fell from under you or something causing
11 it?

12 A No.

13 Q Paul, have all the answers you've given me been
14 true and correct to the best of your knowledge?

15 A Yes.

16 Q And again was this recording made with your full
17 knowledge and permission?

18 A Yes.

19 MS. SAVOIE: Okay. It's approximately 11:25
20 a.m. Thank you, Paul.

21 MR. PAPADASKI: Thanks.

22 (Whereupon, the statement was
23 adjourned at 11:25 a.m.)
24

C E R T I F I C A T E

I, Daryll P. Watts, Shorthand Reporter, do hereby
certify that the foregoing Pages 3 through 21 to
be a true, complete and accurate transcript RE:
Recorded Statement of Paul Papadakis, held at the
time and place here and before set forth, to the
best of my knowledge, skill and ability.

Daryll P. Watts
Notary Public